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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/101,498	07/09/1998	NORBERT MULLER	VO-391	9717

42419 7590 10/05/2005

PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD
SUITE 365
HOFFMAN ESTATES, IL 60195

EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/101,498

Applicant(s)

MULLER, NORBERT

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is in response to applicant's amendment filed on 8/8/2005.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/8/2005 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "consisting of" is a closed-ended transitional phrase which excludes any element, step, or ingredient not specified in the claim. Since claim 5 and its dependent claim 6 include additional elements, the claims fail to properly define the metes and bounds of the claimed invention, thus renders the claims indefinite. For the purpose of this examination, the examiner is considering that the phrase "consisting of" is "comprising."

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1, and 5-6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over USP 3,559,728 to Lyman et al in view of USP 5,184,879 to Brossardt et al.

Lyman et al discloses an air conditioning cabinet structure comprising all the elements recited in the above listed claims and including (1) a cabinet housing (not shown, col. 3, lines 26-29); (2) a hollow cabinet door (10,20), Figs 1-2, comprising (i) a flat surface for sealing an opening of the cabinet housing (col. 1, lines 62-68) thereby defining a first frontal plane and a receptacle space directly adjoining an interior of the cabinet housing, (ii) air-conditioner components integrated supported within the receptacle space (col. 1, lines 62-74) and connected and wired with each other entirely within the receptacle space, (iii) a cover (11,21) positioned over the air-conditioner components, and provided with air aspiration openings and air outlet openings (col. 3,

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lines 39-47); and (3) hinges 17 connecting the cabinet door with the cabinet housing; wherein the interior of the cabinet housing defines a second frontal plane, and when the cabinet door is in a closed position, the first front plane does not impinge upon the second frontal plane, as disclosed by Lyman et al of a substantially flat surface (11,21). The only different being that Lyman et al does not disclose the cabinet door being designed a tub-shaped housing of a trapezoidal cross-section.

Brossardt et al discloses an air conditioning cabinet structure comprising a housing, and a hollow door 20, wherein the hollow door has a tub-shaped housing of a trapezoidal cross-section in order to provide an aesthetic looking door.

It would have been obvious to modify the hollow door structure of Lyman et al by providing the hollow door as a tub-shaped housing of a trapezoidal cross-section in order to provide an aesthetic looking door, as taught by Brossardt et al, since both teach alternate conventional air conditioning electrical cabinet having hollow door structure, used for the same intended purpose, thereby providing structure as claimed.

Further, it would have been an obvious matter of design choice to provide the hollow door of Lyman et al as a tub-shaped, since applicant has not disclosed the criticality of having their door at such shape, and it appears that the hollow door of Lyman et al would perform equally as well.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-

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6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT

September 30, 2005


Hanh V. Tran
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